

FINAL STATEMENT OF REASONS

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are NecessarySection 40-181.1(c)Specific Purpose:

This section is adopted to establish a process for verifying the eligibility of non-minor dependents (NMDs) with the Six-Month Certification of Extended Foster Care Participation [SOC 161 (9/11)] and the Mutual Agreement for Extended Foster Care [SOC 162 (10/11)] forms and reestablishing eligibility every six months with the SOC 161. This regulatory change will allow NMDs who meet at least one of the five specified eligibility criteria to receive extended California Work Opportunity and Responsibility to Kids (CalWORKs) benefits. Section 40-181.1(c) is amended to clarify that this section applies to NMDs receiving extended CalWORKs. As such, Section 40-181.1(c)(1) is amended to remove the requirement that Aid to Families with Dependent Children – Foster Care (AFDC-FC) eligibility be established by the Statement of Facts Supporting Eligibility for Assistance form [CA2 10/89] or Statement of Facts Supporting Eligibility for AFDC-Foster Care form [FC2 (11/04)] and reestablished at six month intervals. Section 40-181.1(c)(2) is also amended to remove the requirement that Kinship Guardianship Assistance Payment (Kin-GAP) eligibility be established by the Statement of Facts Supporting Eligibility Guardianship Assistance Payment (Kin-GAP) Program form [KG2 (1/11)] and reestablished at one year intervals.

Factual Basis:

The adoption of forms SOC 161 and SOC 162 are necessary to comply with Welfare and Institutions Code (WIC) sections 11253(b) and 11403, as amended by AB 12, Chapter 559, Statutes of 2010. The statute provides that CalWORKs extended benefits shall be granted to a NMD if he/she meets at least one of the five specified eligibility criteria. The use of the KG2 at application and at one year intervals is not consistent with these requirements and applies to Kin-GAP eligibility requirements. The use of the CA 2 or FC 2 at application and at six month intervals is also not consistent with these requirements and applies to AFDC-FC eligibility requirements. Copies of the incorporated forms (SOC 161 & 162) may be obtained at <http://www.cdss.ca.gov/cdssweb/PG168.htm>.

Section 40-188.135

Specific Purpose:

This section is amended to add language that directs the former county of residence to provide the new county with copies of the mutual agreement and verification of eligibility criteria. This amendment will ensure that NMDs do not experience a disruption in benefits when they move from one county to another.

Factual Basis:

This amendment is necessary to comply with WIC section 11053, which directs the former county of residence to provide the new county with copies of documents necessary to establish current eligibility during the Inter-County Transfer (ICT) process.

Section 40-190.15

Specific Purpose:

This section is adopted to clarify expectations of counties fulfilling their responsibility to transfer a case to the county with court jurisdiction when the NMD has been receiving aid as part of their caretaker relative's Assistance Unit (AU) from a county other than the county with court jurisdiction.

Factual Basis:

This adoption is necessary to comply with WIC sections 11053 and 11403, which provides for continuous services and cash aid to recipients when they move from one county to another.

Section 42-101.3 through .32

Specific Purpose:

This section is adopted to specify the requirements to extend CalWORKs benefits to eligible NMDs. This regulatory change will allow NMDs to receive CalWORKs benefits beyond age 18 if they are meeting at least one of the five specified eligibility criteria and have signed a mutual agreement with the county welfare department. Current Sections 42-101.4 through .7 are renumbered for clarity and consistency.

Factual Basis:

This adoption is necessary to comply with WIC sections 11253(b) and 11403(b), as amended by AB 12, Chapter 559, Statutes of 2010. The statute provides aid to NMDs if they meet at least one of the five specified eligibility criteria.

Modification

Section 42-101.32 is revised to clarify and provide exception due to medical condition, that the NMD must sign the mutual agreement.

Section 42-213.24

Specific Purpose:

This section is adopted to expand the property limit exclusions. This adoption will allow the personal property and vehicles of NMDs to be excluded from the property limits.

Factual Basis:

This adoption is necessary to comply with WIC section 11253.3(a), as amended by AB 12, Chapter 559, Statutes of 2010. This statute provides that NMDs are not subject to CalWORKs eligibility or reporting requirements.

Section 42-302.1 through .21

Specific Purpose:

These sections are amended to add language to expand the time limit exemptions. These amendments will exempt NMDs from the CalWORKs time limits and work requirements. Current Sections 42-302.21(f) through (l) are renumbered for clarity and consistency.

Factual Basis:

This regulation is necessary to comply with WIC sections 11253.3(a) and 11454.5(a), as amended by AB 12, Chapter 559, Statutes of 2010. The statute excludes NMDs from the CalWORKs time limits. This regulation also clarifies that NMDs are exempt from work requirements and these exempt months will not count towards the time limit.

Section 42-712.1 and .13

Specific Purpose:

This section is amended to add language that expands the Welfare-to-Work Participation exemptions. This adoption will exempt NMDs from Welfare-to-Work requirements if they meet one or more of the five eligibility criteria.

Factual Basis:

This adoption is necessary to comply with WIC section 11253.3(a), as amended by AB 12, Chapter 559, Statutes of 2010. The statute provides that NMDs are not subject to CalWORKs eligibility or work requirements. The five eligibility criteria are based on WIC section 11403(b).

Section 42-712.65

Specific Purpose:

This section is amended to add a cross reference to Section 42-712.13 and to add language that expands the Welfare-to-Work exemptions. This adoption provides that any month in which a NMD is exempt from participation in Welfare-to-Work activities will not count as a month of aid when computing the time limit.

Factual Basis:

This amendment is necessary to comply with WIC section 11253.3(a), as amended by AB 12, Chapter 559, Statutes of 2010. The statute provides that NMDs are not subject to CalWORKs eligibility or work requirements.

Section 44-133.3 through .33

Specific Purpose:

This section is amended to add language that expands exceptions to the treatment of income. This adoption will allow income received by NMDs and non-minor former dependents to be excluded from the CalWORKs grant calculation for the NMDs and/or caretaker relatives if the caretaker relative continues to be aided. Section 44-133.3 is amended to include the income of NMDs in extended CalWORKs. Section 44-133.32 is amended to clarify that income received by a NMD receiving extended CalWORKs benefits will not be included in the NMD's income and grant computation.

Factual Basis:

This regulation is necessary to comply with WIC section 11253.3(a), as amended by AB 12, Chapter 559, Statutes of 2010. The statute provides that NMDs are not subject to CalWORKs eligibility or reporting requirements.

Final Modification

Section 44-133.321 is added to clarify that the NMD may receive both Supplemental Security Income/State Supplementary Payment (SSI/SSP) and extended CalWORKs benefits.

Section 44-316.331~~(t)~~(SAR)(u)

Specific Purpose:

This section is adopted to expand the mid-period changes counties may take action on. This regulatory change will allow the transference of a NMD from his/her caretaker relative's assistance unit into his/her own assistance unit as a county-initiated mid-period change.

Factual Basis:

Generally, under semi-annual reporting regulations, only increases in benefits are acted on mid-period. Changes in circumstances that would decrease CalWORKs cash aid mid-period are held over until the beginning of the next Payment Period. Exceptions to this rule are known as county-initiated mid-period actions. Moving a former minor into his/her own assistance unit when becoming a NMD will result in a decrease or discontinuance of cash aid to the remaining members of the assistance unit (if any). This regulation is necessary to allow the transference of a NMD from the caretaker relative's assistance unit into his/her own assistance unit mid-period, to ensure that the NMD does not experience a break in aid and to prevent duplication of benefits.

Final Modification

Assembly Bill (AB) 6 (Chapter 501, Statutes of 2011) replaced the Quarterly Reporting/ Prospective Budgeting (QR/PB) system with the Semi-Annual Reporting (SAR) system. SAR was phased in from April 1, 2013 through October 1, 2013. This language is being moved from QR [i.e., Section 44-316.331(QR)(t)] to SAR [i.e., Section 44-316.331(SAR)(u)] because during the processing of these proposed regulations SAR was adopted by emergency regulation and effective on July 1, 2013.

Section 80-301

Specific Purpose:

This section is adopted to establish definitions for non-minor dependents and non-minor former dependents. Section 80-301(n)(2) is amended to remove the language "or ward" from the definition for consistency with Section 80-301(n)(1).

Factual Basis:

This regulation is necessary to comply with WIC sections 11400(v), as amended by AB 12, Chapter 559, Statutes of 2010, which defines a non-minor dependent, and 11400(aa) as amended by AB 1712, Chapter 846, Statutes of 2012, which defines a non-minor former dependent.

Section 80-310

Specific Purpose:

This section amends the revision date for the Reminder for Teens Turning 18 Years Old form [QR 2103 (11/11)]. The QR 2103 is used to inform recipient children turning 18 of the requirements for continued eligibility.

Factual Basis:

This amendment is necessary to provide teens with information regarding extended CalWORKs. The QR 2103 informs teens turning 18 years of age that foster children living with approved relatives may receive extended CalWORKs past age 18 if they meet one of the five participation criteria.

Section 82-820.22 through .25

Specific Purpose:

This section is adopted to expand the list of persons included in an AU. The regulatory change will allow a NMD to be in his/her own AU of one. Current Sections 82-820.23 through .25 are renumbered for clarity and consistency.

Factual Basis:

This regulation is necessary to comply with WIC section 11253.3(b), as amended by AB 12, Chapter 559, Statutes of 2010. The statute provides that the NMD shall receive a grant amount equal to a CalWORKs grant recipient in an AU of one.

Section 82-832.1(a)

Specific Purpose:

This section is amended to expand the list of persons excluded from an AU. This regulatory change excludes the child of a NMD from the AU when the NMD is also a recipient of foster care.

Factual Basis:

This regulation is necessary to comply with WIC section 11263.5, as amended by AB 1712, Chapter 846, Statutes of 2012, which provides that a child living with his or her parent, where the parent is a non-minor dependent and a recipient of foster care, is not an eligible child for the purpose of CalWORKs and is only eligible for AFDC-FC benefits.

Final Modification

This subsection was added due to additional testimony received within the scope of the regulations being amended.

Section 82-832.1(k)

Specific Purpose:

This section is adopted to expand the list of persons excluded from an AU. This regulatory change excludes NMDs from the AU of needy caretaker relatives.

Factual Basis:

This regulation is necessary to comply with WIC section 11253.3(b), as amended by AB 12, Chapter 559, Statutes of 2010, which provides that the NMD shall receive a grant amount equal to the CalWORKs maximum aid payment for an AU of one. This regulation clarifies that although the NMD continues to reside with an aided relative, he/she is no longer part of the caretaker relative's AU for CalWORKs purposes.

Modification

This section is revised to include "non-needy" caretaker relatives.

b) **Identification of Documents Upon Which Department Is Relying**

Assembly Bill 12, Chapter 559, Statutes of 2010.
Assembly Bill 1712, Chapter 846, Statutes of 2012.
Assembly Bill 6, Chapter 501, Statutes of 2011.

c) **Local Mandate Statement**

These regulations do constitute a mandate on local agencies, but not on local school districts. There are state mandated local costs of approximately \$9,000 for fiscal year (FY) 2013-14 and \$13,000 for FY 2014-15 that require reimbursement to local agencies. Reimbursement is provided by the Budget Act of 2013.

d) **Statement of Alternatives Considered**

In developing the regulatory action, California Department of Social Services (CDSS) did not consider any other alternatives than the one proposed because it is directed by statute and there were no other alternatives proposed.

The CDSS has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

e) Statement of Significant Adverse Economic Impact On Business

The CDSS has determined that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made because this action only pertains to the implementation of eligibility requirements for non-minor dependents to receive extended CalWORKs benefits.

f) Economic Impact Assessment

The proposed amendments are not expected to have a direct impact on the creation or elimination of jobs, nor result in the elimination or expansion of existing businesses within the State of California. These amendments will improve the health and welfare of California residents by improving the well-being and outcomes for eligible foster youth and by easing their transition to adulthood. Without this added safety net, youth who are forced to leave the foster care system at age 18 will face high rates of homelessness, incarceration and reliance on public assistance.

The primary document relied upon in proposing this regulatory action is AB 12, Chapter 559, Statutes of 2010, as specified in Section b) of this document.

g) Benefits Anticipated from Regulatory Action

This regulatory action implements AB 12 and will benefit eligible foster youth receiving CalWORKs benefits by allowing them to receive benefits beyond age 18, thus easing the transition to adulthood while improving their well-being and outcomes. This regulatory action also exempts non-minor dependents from CalWORKs eligibility and reporting requirements.

h) Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of new, specific technologies or equipment.

i) Testimony and Response January 16, 2013

These regulations were considered as Item #1 at the public hearing held on January 16, 2013, in Sacramento, California. Written testimony was received from the following during the 45-day comment period from November 30, 2012, to 5:00 p.m. January 16, 2013.

Youth Law Center (YLC)
The Alliance for Children's Rights (ACR)

The comments received and CDSS' responses to those comments follow. At the end of each comment is the name of the commenter in parentheses.

Section 42-101.32

1. Comment:

"The cited references do not support the statement that the mutual agreement is a condition of eligibility for extended CalWORKs. WIC 11253 does not impose the mutual agreement as an eligibility criterion, and WIC section 11403(d) refers only to youth in a SILP." (YLC)

Response:

The CDSS disagrees but will revise Section 42-101.32 to clarify that the mutual agreement must be signed by the NMD, documenting that the NMD agrees to comply with program requirements and eligibility conditions.

2. Comment:

"When a youth qualifies under the (e) exception, do they still have to sign the mutual agreement? There may be some issues with competency for the more seriously disabled youth and so there should be an exception for youth who are not capable of making informed consent." (ACR)

Response:

The CDSS agrees and will revise Section 42-101.32 to add an exception for youth who are unable to give consent due to a medical (physical, mental, or emotional) condition.

Section 82-832.1(k)

3. Comment:

"82-832(k)...should also be extended to include non-needy grants received by caregiver for the care of other children in system – the amount of the grant for the other children should not be reduced due to the NMDs receipt of extended CalWORKs." (ACR)

Response:

The CDSS agrees and will revise Section 82-832.1(k) to include non-needy caretaker relatives.

j) Testimony and Response July 10, 2013

These regulations were considered as Item #1 at the public hearing held on July 10, 2013, in Sacramento, California. Written testimony was received from the following during the 45-day comment period from May 24, 2013, to 5:00 p.m. July 10, 2013.

Youth Law Center (YLC)

Section 40-190.15

1. Comment:

"This proposed amendment appears to require transfer of a CalWORKs case when a minor who is placed outside the county of jurisdiction becomes a non-minor dependent, even if he or she remains in the county where he or she was a member of the caretaker relative's AU. The California Department of Social Services (CDSS) should evaluate whether this proposed amendment is consistent with law and current (un-amended) CDSS policy and whether it will have an adverse effect on the ability of non minor dependents to access Medi-Cal services in the county where they reside.

Specifically, CDSS should consider:

- 1) Whether this amendment is legally required or authorized by statute.
- 2) Whether this amendment conflicts with MPP 40.125.3 and MPP 40.189 policies on county responsibility and home county.
- 3) Why this amendment is necessary to comply with Welfare and Institutions Code sections 11053 and 11403 or to provide continuous services and cash aid to recipients when they move from one county to another.
- 4) Whether changing the county of responsibility will create barriers to medical care or confusion in accessing Medi-Cal services.

If the purpose of the proposed amendment is to address situations in which a foster youth in a CalWORKs AU transfers to an AFDC-FC funded Supervising Independent Living Placement (SILP), CDSS should clarify the language and require appropriate notification so that the non-minor dependent understands what is happening and why."

Response:

The CDSS is not amending the regulations. The regulation is needed to comply with statute pursuant to WIC section 11403(f)(1), which specifies that the county having jurisdiction of the non-minor dependent shall remain the county of payment, regardless of the non-minor dependent's physical residence.

k) Additional Comments Received

Additional comments were received by Fresno County on October 25, 2013. The comments received and the Department's responses to those comments follow.

Section 82-832.1(a)

1. Comment:

"EAS 82-832.1(a) states the infant is excluded from CalWORKs when living with their "minor" parent. The manual does not address what happens when the parent is not a minor but receiving AFDC-FC...does not align with ...WIC 11263.5."

Response:

The CDSS agrees and will revise Section 82-832.1(a) to exclude the child of a NMD receiving AFDC-FC from the assistance unit.

l) 15-Day Renotice Statement

Pursuant to Government Code section 11346.8, a 15-day renotice and complete text of modifications made to the regulations were made available to the public following the public hearing. No written testimony on the modifications renoticed for public comment from March 13, 2014, through March 28, 2014, was received.